

**ANNEX 42**  
**Public Redacted**  
**Version**

**From:** Trial Chamber V Communications  
**Sent:** 09 January 2023 14:37  
**To:** [REDACTED]; Office of the Director DJSS  
**Cc:** OTP CAR IIB; D30 Ngaissona Defence Team; D29 Yekatom Defence Team; V45 LRV Team; V44 LRV Team OPCV; V44 LRV Team; Associate Legal Officer-Court Officer; Chamber Decisions Communication; Trial Chamber V Communications  
**Subject:** Decision on the Ngaissona Defence request concerning cooperation request in decision -1159

Dear Counsel, dear colleagues of the Registry,

The Chamber takes note of the Ngaissona Defence's request that it 'order the Registry to provide a full and detailed (*ex parte* Ngaissona Defence only) report of its communications with the Central African authorities further to the Chamber's decision', with reference to decision ICC-01/14-01/18-1159-Conf and Red (the 'Decision') (*see* email below).

The Chamber further notes the time elapsed since the issuance of the Decision and that it instructed the Registry therein 'to emphasise in the cooperation request the importance of its prompt execution and to indicate to the CAR authorities that, in the event they identify problems which may impede or prevent its execution, they shall consult with the Chamber without delay to resolve the matter, in accordance with Article 97 of the Statute'.

In light of the above, the Chamber instructs the Registry to provide a report concerning the execution of the cooperation request and, in particular, to indicate whether the CAR authorities have reported any problems in this regard, by Thursday, 12 January 2023.

Should the Registry provide its report on an *ex parte* basis, it is instructed to provide a confidential redacted version simultaneously.

Kind regards, TC V

**From:** [REDACTED]  
**Sent:** 05 January 2023 16:10  
**To:** Trial Chamber V Communications [REDACTED]  
**Cc:** OTP CAR IIB [REDACTED]; D30 Ngaissona Defence Team [REDACTED]; D29 Yekatom Defence Team [REDACTED]; V45 LRV Team [REDACTED]; V44 LRV Team OPCV [REDACTED]; V44 LRV Team [REDACTED] Office of the Director DJSS [REDACTED] >  
**Subject:** RE: Defence notice of an issue impacting the preparation of the questioning for P-1719

Dear Trial Chamber,

The Defence refers to its email dated 28 June 2022 below, in which the Defence was noting with concern the Central African authorities' apparent lack of progress in the execution of the cooperation request pursuant to the Chamber's decision of 1 November 2021 granting the Defence request pursuant to Article 57(3)(b) (ICC-01/14-01/18-1159-Conf). In this email, the Defence also emphasised the impact of Mr Ngaissona's [REDACTED] on the preparation of key witnesses and its importance to the trial generally.

The last update provided to the Defence by the Counsel Support Section of the Registry on this issue was on 23 September and 3 October 2022. [REDACTED]

[REDACTED] The Defence was soon after invited to get in touch with [REDACTED].

[REDACTED] contacted [REDACTED] as suggested, however, no [REDACTED] was ultimately organised by [REDACTED]. Since this last event, over three months ago, the Defence has not received any new information regarding the advance of this cooperation request or the lack thereof. [REDACTED]

[REDACTED] went back alone to [REDACTED] but without any specific assistance from the CAR authorities, he faced the same obstacles as those described in the Defence request.

As per paragraph 13 of the Chamber's decision, which was issued more than one year ago, the Chamber instructed the Registry to "emphasise in the cooperation request the importance of its prompt execution and to indicate to the CAR authorities that, in the event they identify problems which may impede or prevent its execution, they shall consult with the Chamber without delay to resolve the matter, in accordance with Article 97 of the Statute".

In light of this situation, and in view of the upcoming testimony of P-2625, the Defence respectfully requests that the Chamber order the Registry to provide a full and detailed (*ex parte* Ngaïssona Defence only) report of its communications with the Central African authorities further to the Chamber's decision, so as to allow the Chamber to take any further appropriate measures to ensure the prompt execution of the cooperation request.

Kind regards,

██████████  
On behalf of Counsel

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**From:** ██████████

**Sent:** 28 June 2022 12:00

**To:** Trial Chamber V Communications ██████████

**Cc:** OTP CAR IIB Prosecution Team ██████████; D30 Ngaïssona Defence Team

██████████ D29 Yekatom Defence Team ██████████;

V45 LRV Team ██████████; V44 LRV Team OPCV ██████████; V44 LRV Team

██████████

**Subject:** Defence notice of an issue impacting the preparation of the questioning for P-1719

Dear Trial Chamber,

I am writing on behalf of Counsel to note for the record a matter impacting the Defence with respect to its preparation for witness P-1719 and potential other witnesses.

Since the Chamber's decision granting the Defence request pursuant to Article 57(3)(b) on 1 November 2021 (ICC-01/14-01/18-1159-Conf), the Defence has continued to seek cooperation from the CAR authorities through the Registry to obtain Mr Ngaïssona's ██████████

██████████ notwithstanding, there has not been any tangible follow-up from the CAR authorities since.

The Defence provides this notice now because the ██████████ is obstructing Defence preparation. The Trial Chamber has previously found that Mr Ngaïssona's ██████████ would provide information material to Defence preparation and is relevant (ICC-01/14-01/18-1159-Conf, para. 8). This was because the material would

assist the Chamber in determining Mr Ngaïssona's ██████████ during the period relevant to the charges – and, specifically, ██████████, and further assist the Defence in challenging the accounts of events presented by certain Prosecution witnesses in this regard (para. 8)

P-1719 makes a number of claims concerning the ██████████ (see for example paras 23 and 25 of his statement CAR-OTP-2062-0039). The Defence notes that were it the case that it was in possession ██████████ it would be able to put this to P-1719 to challenge the witness's memory or narrative. Therefore, the lack of possession ██████████ will prejudice the Defence's capacity to contest and test P-1719's evidence on these issues.

The Defence makes no request of the Trial Chamber at this time other than bringing this notice for the record. With respect to the importance of ██████████ to the trial more generally, the Defence is examining its options pursuant to Part 9 of the Rome Statute and may bring a request to the Trial Chamber in due course hoping for its assistance in this regard.

Kind regards,

██████████ on behalf of Counsel

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